

RECORDING REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

APN 079-261-012

OPEN-SPACE AGREEMENT GRANTING AN OPEN-SPACE EASEMENT
TO THE COUNTY OF SAN LUIS OBISPO

THIS AGREEMENT is made and entered into this ____ day of _____,
2013 by and between COASTAL CHRISTIAN SCHOOL, A CALIFORNIA, RELIGIOUS,
A NON-PROFIT CORPORATION, hereinafter referred to as "Owner," and the COUNTY
OF SAN LUIS OBISPO, a political subdivision of the State of California, hereinafter
referred to as "County."

WITNESSETH:

WHEREAS, Owner is the record owner of certain real property (hereinafter
referred to as "Owner's Property") located in the County of San Luis Obispo, State of
California, which is more particularly described in Exhibit A attached hereto and
incorporated by reference herein as though set forth in full; and

WHEREAS, as agreed to by Owner and as a condition of approval of Conditional
Use Permit DRC2008-00021 by County for Owner's Property, Owner is required to

ck. title rpt. / Conditional Use Permit DRC2008-00021

enter into an agreement with the County, on behalf of himself and his successors in interest, to maintain portions of the site in open-space use; and

WHEREAS, Owner intends that the restrictions contained in this agreement shall apply to that portion of Owner's Property (hereinafter referred to as the "Subject Property") which is more particularly described in Exhibit B attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, execution of this agreement by Owner and County, and subsequent performance of its obligations by Owner and his successors in interest, will satisfy the open space preservation requirement agreed to by Owner and imposed by condition 43 of the County's conditions of approval for the purpose of setting aside and protecting habitat for the Pismo clarkia (*clarkia speciosa* sop. *immaculata*), a federal and state protected plant, Wells Manzanita (*Arctostaphylos wellsii*), and oak woodlands (hereinafter collectively referred to as the "Protected Plants"); and

WHEREAS, the Subject Property has certain natural scenic beauty and existing openness, and both Owner and County desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of said property of the Owner; and

WHEREAS, Owner is willing to grant to County the scenic use, as hereinafter expressed, of the land and thereby protect the present scenic beauty and existing openness of the Subject Property and provide habitat for the Protected Plants by the restricted use of said property by Owner through the imposition of the conditions hereinafter expressed; and

WHEREAS, both Owner and County intend that the terms, conditions, and restrictions of the open-space easement granted in this agreement are in compliance

with Government Code sections 51070 through 51097, inclusive, hereinafter referred to as the "Open-Space Easement Act of 1974," so as to be an enforceable restriction under the provisions of Revenue and Taxation Code section 422; and

WHEREAS, Owner has supplied County with a current title company preliminary title report or lot book guarantee listing all trust deed beneficiaries and mortgagees, if any, under prior recorded deeds of trust and mortgages on the Subject Property.

NOW, THEREFORE, in consideration of the premises and in compliance with the provisions of Government Code sections 51070 through 51097, inclusive, and in further consideration of the mutual promises, covenants, and conditions herein contained and the substantial public benefits to be derived therefrom, the parties hereto agree as follows:

1. Grant of open-space easement. Owner hereby grants to County, for the term specified in paragraph 8 below, an open-space easement in and to the Subject Property described above. The open-space easement granted herein conveys to County an estate and interest in the real property of the nature and character specified in the Open-Space Easement Act of 1974, which is subject to the express conditions and restrictions imposed herein upon the use of the property by Owner. To that end, and for the purpose of accomplishing the intent of the parties hereto, Owner covenants on behalf of himself, his successors and assigns with the County, its successors and assigns to do and refrain from doing, severally and collectively, upon the Subject Property, the various acts hereinafter mentioned.

2. Restrictions on use of the Subject Property. The restrictions imposed upon the use of the Subject Property by Owner and his successors in interest and the acts

which Owner and his successors in interest shall refrain from doing, and permit to be done, upon the Subject Property are as follows:

- (a) No buildings, structures, or other improvements shall be placed, constructed, or erected upon the Subject Property.
- (b) No advertising of any kind shall be placed on or within the Subject Property.
- (c) Owner shall not plant or permit to be planted any vegetation upon the Subject Property except as authorized by the approved restoration plan, habitat mitigation plan, mitigation and monitoring plan, tree mitigation plan, or open-space maintenance plan (hereinafter collectively referred to as the "Mitigation Plans"), and except as authorized by the conditional use permit referred to above, and as necessary for erosion control.
- (d) Except as authorized by the Mitigation Plans, the topography of the landscape within the Subject Property shall be maintained in its present condition and no grading, excavation, or topographic changes shall be made.
- (e) No use of the Subject Property which will or does materially alter the landscape, its habitat, or other attractive scenic features of the property, other than those specified herein, shall be done or suffered.
- (f) Owner shall not extract natural resources from the Subject Property.
- (g) Except as authorized by the Mitigation Plans, Owner shall not remove or alter native plants or animals from the Subject Property.
- (h) Owner shall not use the Subject Property for agricultural development or for agricultural staging activities or storage of any kind.

(i) Owner shall not cut timber, trees, or other natural growth, except as authorized by the Mitigation Plans and as may be required to optimize habitat for the Protected Plants and for fire protection, thinning, elimination of diseased growth, and similar protective measures.

(j) Owner shall not use the Subject Property or any portion thereof as a parking lot, storage area, or dump site or otherwise deposit or allow to be deposited on the Subject Property or any portion thereof, temporarily or otherwise, anything whatsoever which is not indigenous or natural to the Subject Property.

(k) Owner shall not cover or cause the Subject Property to be covered in whole or in part with any asphalt, stone, concrete, or other material which does not constitute natural cover for the land nor otherwise disturb the natural cover of the land unless otherwise authorized by the provisions of this agreement.

(l) No land division of Owner's Property shall occur except after obtaining all necessary approvals required by Title 21 and Title 22 of the San Luis Obispo County Code, nor shall Owner or his successors in interest otherwise convey (other than under threat of condemnation) the Subject Property or a portion thereof to one or more parties or convey Owner's Property to two or more parties each of whom acquire title to less than the whole of said parcel without obtaining the necessary approvals required by Title 21 and Title 22 of the San Luis Obispo County Code. Any such conveyance or transfer of Owner's Property, the Subject Property, or a portion thereof by Owner or his successors in interest shall be considered null and void.

3. Reservations of use by Owner. Notwithstanding the provisions of paragraph 2 above, the following property rights in the Subject Property are excepted from this grant and are expressly reserved to Owner:

(a) The right to construct, develop, and maintain all roads, structures, and other improvements authorized by the approved conditional use permit referred to above, and any amendments or modifications thereto which may be approved by the County.

(b) The right to use the Subject Property and implement thereon all of the requirements of the Mitigation Plans referred to above required by the conditional use permit and approved by the Department of Planning and Building.

(c) The right to use the Subject Property for educational purposes subject to the requirements of an open-space maintenance plan prepared by Owner and approved the Department of Planning and Building, and subject to the requirements of any other state or federal agency with jurisdiction over the Subject Property.

(d) The right to the use and occupancy of the Subject Property, subject to the conditions and restrictions imposed in this agreement.

4. Compliance with County regulations. Land uses permitted or reserved to Owner in this agreement are subject to and require compliance with all applicable county ordinances and regulations, including those regulating land use.

5. Construction of improvements. Owner shall not construct or permit the construction of any improvements on the Subject Property except as expressly reserved herein or as authorized in the Open-Space Easement Act of 1974. Provided, however, nothing contained in this agreement shall prohibit the construction of either public service facilities installed for the benefit of the Subject Property or public service facilities installed pursuant to an authorization of the Board of Supervisors of the County or the Public Utilities Commission.

6. No authorization for public trespass. The grant of easement contained herein and its acceptance by the County of San Luis Obispo does not authorize and is not to be construed as authorizing the public or any member thereof to trespass upon or use all or any portion of the Subject Property or as granting to the public or any member thereof any tangible rights in or to the Subject Property or the right to go upon or use or utilize the Subject Property in any manner whatsoever. It is understood that the purpose of this agreement is solely to restrict the uses to which the Subject Property may be put so that the property may be kept as near as possible in its natural condition for the benefit of the public by preserving habitat for the Protected Plants.

7. Effect on prior easements. Nothing contained in this agreement shall limit or affect any easements that are of record and that have been heretofore granted by Owner on, over, under, or across the Subject Property or any portion thereof.

8. Duration of easement. The grant of easement to County contained in this agreement shall be effective when it has been approved and accepted by resolution of the Board of Supervisors in the manner required by law, and it shall remain in effect in perpetuity unless abandoned or otherwise terminated by the Board of Supervisors in accordance with the provisions of the Open-Space Easement Act of 1974. Provided, however, no easement shall be abandoned or otherwise terminated without first obtaining approval of an amendment to Conditional Use Permit DRC2008-00021 authorizing such abandonment or termination.

9. Enforceable restriction. Upon acceptance of the open-space easement granted herein, the Subject Property shall be deemed to be "enforceably restricted" within the meaning of section 422 of the Revenue and Taxation Code and section 8 of Article XIII of the Constitution of the State of California.

10. Binding on successors in interest. This agreement shall be deemed an equitable servitude and a covenant running with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest. Any conveyance, transfer, or sale made by Owner of said property or any portion thereof shall be deemed to incorporate by reference, and be subject to, each of the provisions of this agreement.

11. Effect of waiver. County's waiver of the breach of any one term, covenant, or provision of this agreement shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this agreement or of the breach of any other term, covenant, or provision of this agreement.

12. Judicial enforcement. Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.

13. Law governing and venue. This agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California. All duties and obligations of the parties created hereunder are performable in the County of San Luis Obispo, and such County shall be that venue for any action, or proceeding that may be brought, or arise out of, in connection with or by reason of this agreement.

14. Enforceability. If any term, covenant, condition, or provision of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

15. Notices. Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices required to be given to County shall be addressed as follows: Director of Planning and Building, County of San Luis Obispo, County Government Center, Room 300, San Luis Obispo, California 93408. Notices required to be given to Owner shall be addressed as follows: Coastal Christian School, 1220 Farrol Avenue, Arroyo Grande, California 93420.

Provided that any party may change such address by notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

16. Agreement to be recorded. Owner and County intend and consent to the recordation of this agreement in the office of the County Recorder of the County of San Luis Obispo, and such recordation of this agreement shall serve as constructive notice of the obligations contained herein to be performed by the Owner and the successors in interest to all or any portion of Owner's Property.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OWNER

COASTAL CHRISTIAN SCHOOL,
A CALIFORNIA, RELIGIOUS, A NON-PROFIT
CORPORATION

By: 

Name: Michael Hummer

Title: BOARD Chair Person

**CALIFORNIA
ALL PURPOSE CERTIFICATE OF ACKNOWLEDGEMENT**

State of California

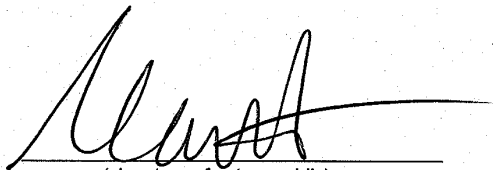
County of San Luis Obispo } SS.

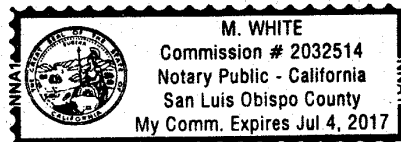
On December 5, 2013 before me, M. White, Notary Public
(insert name and title of the officer)

personally appeared Michael Humerian and Carl Bockhahn,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.


I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.


(signature of notary public)



(seal)

By: 
Name: Carl Bockhahn
Title: Secretary, Coastal Christian School Board

COUNTY OF SAN LUIS OBISPO

By: _____
Chairman of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

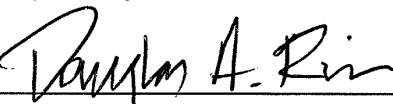
RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: 12/10/13

LEGAL DESCRIPTION APPROVED AS TO FORM:

DOUGLAS A. RION
County Surveyor

By: 

Dated: 12/10/2013

[NOTE: This Open-Space Agreement will be recorded. All signatures to this agreement must be acknowledged by a notary.]

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STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN LUIS OBISPO)

On _____, before me, _____,
Deputy County Clerk-Recorder, County of San Luis Obispo, State of California,
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person whose name is
subscribed to the within instrument and acknowledged to me that he/she executed the
same in his/her authorized capacity, and that y his/her signature on the instrument the
person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

**JULIE L. RODEWALD, County Clerk-Recorder
and Ex-Officio Clerk of the Board of
Supervisors, County of San Luis Obispo, State
of California**

By: _____
Deputy County Clerk-Recorder

[SEAL]

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EXHIBIT A

Parcel C of Parcel Map CO 78-249, in the County of San Luis Obispo, State of California, according to map recorded June 22, 1981 in Book 30 at page 65 of Parcel Maps, in the office of the County Recorder of the County of San Luis Obispo, State of California.

EXCEPTING THEREFROM all oil, gas, and other hydrocarbon substances and minerals in and under said land but without the right to enter upon the surface of that portion of the land lying above a depth of 500 feet from the surface thereof.

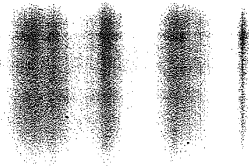


EXHIBIT B

[Legal description of the open-space easement in a form approved by the County Surveyor.]

EXHIBIT B

OPEN-SPACE EASEMENT

BEGINNING AT THE SOUTHEAST CORNER OF PARCEL C AS SHOWN ON PARCEL MAP CO-78-249, RECORDED IN BOOK 30 PAGE 65 COUNTY OF SAN LUIS OBISPO OFFICIAL RECORDS, THENCE DEPARTING ALONG THE SOUTHERLY LINE OF SAID PARCEL C NORTH 64°22'15" WEST A DISTANCE OF 1,297.7 FEET TO THE SOUTHWEST CORNER OF PARCEL C AND THE SOUTHEAST CORNER OF PARCEL B, THENCE DEPARTING ALONG SAID LINE 89°37'45"E 199.1 FEET, THENCE SOUTH 64°22'15" EAST A DISTANCE OF 49.9 FEET, THENCE SOUTH 11°21'11" EAST A DISTANCE OF 47.4 FEET, THENCE SOUTH 64°22'15" EAST A DISTANCE OF 655.0 FEET, THENCE SOUTH 37°33'31" EAST A DISTANCE OF 146.1 FEET TO A POINT ON A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 80.0 FEET, THENCE ALONG SAID CURVE TO THE LEFT A DISTANCE 119.2 FEET THROUGH A CENTRAL ANGLE OF 85°24'6", THENCE SOUTH 56°07'31" WEST A DISTANCE OF 17.2 FEET TO A POINT ON A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 150.0 FEET, THENCE ALONG SAID CURVE TO THE LEFT A DISTANCE OF 122.1 FEET THROUGH A CENTRAL ANGLE OF 46°38'59": THENCE NORTH 08°06'51" EAST A DISTANCE OF 79.1 FEET, THENCE SOUTH 78°21'42" WEST A DISTANCE OF 103.6 FEET TO A POINT ON THE OAK PARK BLVD. RIGHT OF WAY, THENCE DEPARTING SOUTHERLY ALONG A NON TANGENT CURVE TO THE LEFT WITH A RADIUS OF 493.0 FEET AND A RADIAL THAT BEARS NORTH 78°21'42" WEST, A DISTANCE OF 255.3 FEET THROUGH A CENTRAL ANGLE OF 29°39'56", THENCE CONTINUING ALONG THE OAK PARK BLVD. RIGHT OF WAY SOUTH 18°01'38" EAST A DISTANCE OF 119.5 FEET TO A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 528.3 FEET, THENCE CONTINUING ALONG THE OAK PARK BLVD. RIGHT OF WAY A DISTANCE OF 103.4 FEET THROUGH A CENTRAL ANGLE OF 11°13'2" TO THE POINT OF BEGINNING. CONTAINING 4.89 ACRES MORE OR LESS.

[NOTE: Not used because not approved by County Surveyor. Needs to be revised.]

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